

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**NANCY MARTIN and,
MARY BETH BRACKIN,**

Plaintiffs,

V.

**CITY OF DOTHAN and JUDGE
ROSE EVANS-GORDON,**

Defendants.

Case No. 1:05-CV-1172-MEF

**DEFENDANTS' RESPONSE TO PLAINTIFFS' RENEWED
MOTION TO EXTEND DISPOSITIVE MOTION DEADLINE**

Defendants The City of Dothan and Judge Rose Evans-Gordon
hereby respond to Plaintiffs' Renewed Motion to Extend Dispositive Motion
Deadline filed on October 17, 2007.

Defendants herein are sympathetic to Plaintiff Martin's medical situation. If indeed it is her illness or injury (and not her concern about being absent from work) that prevents her from being deposed on October 24, 2007, Defendants certainly have no objection to delaying her deposition, which, despite Plaintiffs' representation, is set and has been set for October 24, 2007. Ms. Martin's deposition was rescheduled from the week of October 8, 2007, in light of her inability to be available due to her

son's redeployment to Iraq. Thus, contrary to Plaintiffs' assertions, Defendants have not had difficulty deciding on a date to depose Plaintiff Martin and are doing so at the earliest date Plaintiff Martin stated to her counsel that she was available for a deposition. Plaintiff Martin has known, or her counsel has known, since October 8, 2007 that she would be deposed on October 24, 2007. (See Exhibit A). Her deposition has also been noticed for this date.

Defendants' counsel has also indicated to Plaintiffs' counsel that she will make the week of October 29, 2007 available for Plaintiffs' counsel to depose witnesses he has asked to depose. However, several of these witnesses do not work for or are no longer with the City and Defendants have no control over them or their availability. As to the witnesses who are employed by the City, they include Judge Rose Evans-Gordon, two police Lieutenants, an Auditor, and two Magistrates. One of the Magistrates will be out of the country that week and Defendants have offered to make her available on a day during the week of November 5, 2007. As to the remaining witnesses, Defendants' counsel has been working diligently to coordinate schedules of these individuals to be available the week of October 29, 2007. She has even asked Plaintiffs' counsel to provide the two back-to-back days that are best for him, and she will work to accommodate him. (See Exhibit B).

As to documents referred to in Plaintiffs' Motion, Defendants are shipping these today and have assured Plaintiffs' counsel that he would receive the documents well in advance of depositions for the week of October 29, 2007. (See Exhibit B).

While Defendants do not object to Plaintiffs' Motion to Extend if Plaintiff Martin is medically unable to attend her deposition on October 24, 2007, Defendants felt compelled to clarify certain representations made in Plaintiffs Motion. Furthermore, if Plaintiff Martin's deposition is delayed until the end of October and all other depositions are delayed until the week of November 5, 2007, or later, it will place an extreme burden on Defendants to meet their dispositive motion deadline of November 16, 2007 if Plaintiffs' Motion is denied.

Respectfully submitted,

/s/ Carol Sue Nelson
Carol Sue Nelson
Attorney for Defendants
Maynard, Cooper & Gale, PC
1901 Sixth Avenue North
2400 Regions/Harbert Plaza
Birmingham, Alabama 35203
(205) 254-1000
(205) 254-1999 (fax)

CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Ishmael Jaffree, Esq.
951 Government Street
Suite 415
Mobile, Alabama 36604

F. Lenton White, II, Esq.
City of Dothan
City Attorney's Office
P.O. Box 2128
Dothan, Alabama 36303

Joe E. Herring, Jr., Esq.
City of Dothan
City Attorney's Office
P.O. Box 2128
Dothan, Alabama 36303

/s/Carol Sue Nelson
OF COUNSEL

EXHIBIT A

Carol Sue Nelson - Re: Depositions

From: Ishmael Jaffree <ishjaff@yahoo.com>
To: Carol Sue Nelson <cnelson@maynardcooper.com>
Date: 10/8/2007 10:42 PM
Subject: Re: Depositions

Didn't get back in town until late Sunday. Had to catch up on several outstanding matters. Only read your Motion 10:30 PM Monday October 8. Motion fine, please send. I will be in Court then in transit tomorrow.

Carol Sue Nelson <cnelson@maynardcooper.com> wrote:

This will confirm that I will depose Ms. Brackin on Wednesday October 10th at 8:30 a.m. in meeting Room B at the Civic Center. I will send a new Notice. I would like to depose Ms. Martin on Wednesday October 24th. I will send a Notice on this also.

I am checking the availability of our witnesses for the week of October 29th.

Per our discussion, I am enclosing a draft of a Joint Motion to Extend the Dispositive Motion deadline by one month. This should affect no other dates. Please let me know if this is agreeable.

I will also give you a call to confirm Ms. Brackin's deposition date.

Thank you, Carol Sue

Carol Sue Nelson
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EXHIBIT B

Carol Sue Nelson - Martin and Brackin

From: Carol Sue Nelson
To: Ishmael Jaffree
Date: 10/15/2007 5:22 PM
Subject: Martin and Brackin
Attachments: Carol Sue Nelson.vcf

I am getting all the documents I indicated I would produce, copied and bates stamped. I will get them out to you this week. These include the subpoenaed documents on Ms. Martin and Ms. Brackin. As I indicated, we expect to be reimbursed for the copying costs.

I am still checking on deposition dates. My contacts were out Friday and today was the City Commission meeting. I have offered the week of October 29th and will try to work around your schedule. I will get you Gary Coleman's last known address, since he is no longer with the City and we have no control over him. LaVera McLain is out of the country that week. We can set her deposition the week of November the 5th. Wednesday or Friday is the best day for the Judge based on her docket. Lt. Gray works a 6pm to 6am schedule, so we may need to do a late deposition for him. I would hope we could do these in a 2- day back to back period, though I realize we may spill over into a third day. Give me your two best days the week of the 29th and I will do my best to accommodate you. I am the one under the wire here. Discovery does not cutoff until January 31, 2008. I too and having to do a lot of juggling with my schedule.

Thanks, Carol Sue

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